

REMARKS

Claims 1-27 and 29-34 remain pending in this application. Claims 9, 11, 12, and 16-18 stand allowed, and claims 1-8, 10, 13-15, 19-27, and 29-34 stand rejected. Applicants express their appreciation for the allowance of claims 9, 11, 12, and 16-18.

Applicants have amended the specification and drawings to correct minor errors noted therein. Paragraph [0001] of the specification has been amended to update the status of U.S. Patent Application Serial No. 10/422,311. Paragraph [0044] has been amended to clarify that the fastening surface is provided on the front surface of the slat 52 and thereby make the description contained in paragraph [0044] consistent with the description of elongated slat 52 in paragraph [0033] of the specification. In Fig. 4, the lead line of element 53 (the front surface of slat 52) has been extended to the front surface of slat 52 in accordance with the description contained in paragraph [0033] of the specification. The amendment to Fig. 4 is also supported by Fig. 4 of U.S. Patent No. 6,568,740, which was incorporated by reference in paragraph [0001] of the specification. Accordingly, no new matter has been added by the amendments to the specification or Fig. 4.

With respect to the amendments to the claims, Applicants have amended independent claims 1 and 10 to more clearly define the claimed subject matter. In particular, as amended, independent claims 1 and 10 now require transverse cross-section of the second fastening means to be dimensioned to (1) fit within the channel defined in the rail and permit longitudinal slideable engagement between the second fastening means and the channel and (2) prevent lateral movement of the second fastening means from the channel. Allowable claims 11 and 12 have been amended to clarify that it is the elongated slat that is introduced into the side rail so that it extends along the longitudinal axis of the side rail. The amendments to claims 11 and 12 were not made for reasons related to patentability. Similarly, independent claims 13, 16, and 18 have been amended to separate

the fastening surface limitation of those claims from the elongated slat limitation of those claims, thereby more clearly highlighting that these are two separate elements of the claimed cover systems as reflected in paragraphs [0033] and [0044] of the specification. These amendments were thus not made for reasons related to patentability. Applicants have also amended claim 13 to more clearly define the elongated slat and channel limitations of the claim so that the claim now provides that “the slat and channel [are] dimensioned so that the transverse cross-section of the slat fits within the channel.” Independent claims 29 and 30 have also been amended to more clearly separate the fastening surface limitation from the elongated slat limitation. In addition, the elongated slat limitation has been amended to expressly require that the second slat and channel be dimensioned so that the transverse cross-section of the second slat fits within the channel in the second side rail. As this requirement was already implicit in the limitation that the second slat be mounted “within” the channel, applicants respectfully submit that the amendments to the second elongated slat limitation of claims 29 and 30 are not of a narrowing nature.

The Outstanding 102(b) Rejections:

Claims 1, 2, 5, 6, 8, 10, 13-15, 24-27, and 29-34 stand rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Wheatley (U.S. Patent No. 6,386,616). Applicants respectfully transverse.

Wheatley teaches a mechanism for retaining the position of snap fasteners on a tonneau cover rail. The disclosed tonneau cover system includes a plurality of female snap members 32 that are attached along the periphery of a cover 22 and are designed to engage male snap members 30 slideably carried on rails 24, 26. (See Wheatley at Col. 2, lines 45-60.) As can be seen in Fig. 3, rails 24, 26 have a closed section shape with an inner wall 40, an upper wall 42 and a lower wall 44. Furthermore, an outer wall 48 generally slopes downwardly and outwardly from the upper wall 42 to

the lower wall 44. The outer wall 48 is interrupted by a snap mounting wall 50 that is connected to the outer wall 48 by an upper connecting wall 52 and a lower connecting wall 54. (*See* Wheatley at Col. 2, line 62-Col. 3, line 2.) The snap mounting wall 50 includes upper and lower side edges that extend beyond the connecting walls 52 and 54 forming overhanging flanges 58 and 60, about which the male snap members 30 are retained on either rail 24 or 26 forming frame 28. (*See* Wheatley at Col. 3, lines 3-7.)

Wheatley teaches that each male snap member 30 includes a “C-shaped base 62 with a raised collar 72 protruding upward from the base 62.” The raised collar 72 interferingly fits with the female snap portions 32. As seen from Figs. 3 and 5, the C-shaped base 62 is formed with two reversely bent ends 63 designed to extend about overhanging flanges 58 and 60 and capture the male snap member 30 on the snap mounting wall 50. Further, as reflected in Fig. 3, the snap member 30 is mounted on the outside of snap mounting wall 50, and thus the snap member 30 is located on the outside of any purported channel formed at the upper end of snap mounting wall 50. Male snap member 30 is also longer (between the bent ends 63) than it is wide. However, as seen from Fig. 3, the length of the male snap members 30 is transverse to the rails 24, 26, as opposed to extending in the longitudinal direction of the rails 24, 26.

Claim 1 of the instant application includes, *inter alia*, “an elongated, substantially rigid second fastening means having an integrally formed fastening surface positioned to engage the first fastening means, the transverse cross-section of the second fastening means being dimensioned to (1) fit within the channel and permit longitudinal slideable engagement between the second fastening means and the channel and (2) prevent later movement of the second fastening means from the channel.” Thus, as clearly reflected by the above discussion and Fig. 3 of Wheatley, Wheatley simply fails to disclose an elongated, substantially rigid second fastening means as claimed in claim

1. First, the transverse cross section of the male snap member 30 disclosed in Wheatley is not “*dimensioned ... to fit within the channel* and permit longitudinal slideable engagement between the second fastening means and the channel.” Second, the transverse cross-section of the male snap member 30 disclosed in Wheatley is not “*dimensioned ... to prevent lateral movement of the second fastening means from the channel.*” It is the bent ends 63 at the longitudinal ends of male snap member 30 that restrain the male snap member 30 on overhanging flanges 58, 60, not the transverse cross-section of the male snap member 30.

Because Wheatley does not anticipate claim 1, it also does not anticipate any of dependent claims 2, 5, 6, or 8.

Wheatley also fails to anticipate independent method claim 10. Claim 10 claims a method of making a cover system for an open top container or truck box that includes the step of, *inter alia*, “slideably introducing the elongated slat into a channel formed in the side rail *so that the length of the elongated slat extends along the longitudinal axis of the side rail.*” Claim 10 also requires the transverse cross-section of the elongated slat and the channel to be “dimensioned so that (1) *the transverse cross-section of the elongated slat fits within the channel* to permit longitudinal slideable engagement between the elongated slat and the channel, and (2) *the elongated slat is prevented from escaping from the channel in a lateral direction.*” Wheatley clearly does not teach or suggest any of the foregoing limitations. First, contrary to the Examiner’s assertion in the Office Action, the male snap member 30 is not a “slat” as it is “C-shaped” as opposed to being a narrow strip of material. Second, the Examiner concedes that the male snap member 30 is elongated in a direction transverse to the rail as opposed to along the rails length. Third, the male snap member 30 does not slat have a transverse cross-section dimensioned as claimed in claim 10. Accordingly, the 35 U.S.C. § 102(b) rejection of claim 10 over Wheatley is without merit and should be withdrawn.

Wheatley also fails to anticipate claim independent claim 13. Independent claim 13 claims a cover system for an open top container or truck box, comprising, *inter alia*, “an elongated slat ***mounted within*** the channel to allow longitudinal sliding movement between the elongated slat and the channel, ***the slat and channel being dimensioned so that the transverse cross-section of the slat fits within the channel.***” By contrast, the male snap member 30 taught in Wheatley is not a “slat.” Further, the male snap member 30 is not “mounted within” a channel as required by claim 13. Indeed, as the teachings of Wheatley make clear, the male snap member 30 is mounted about the overhanging flanges 58, 60, not within a channel. Claim 13 also requires “a fastening surface on a surface of the elongated slat ***and exposed through the channel.***” The Examiner asserts that raised collar 72 corresponds to the claimed fastening surface. (See Office Action at p. 2.) Raised collar 72 is not “exposed through the channel,” however, as no portion of collar 72 is even within a channel in the system disclosed in the Wheatley patent.

Because Wheatley does not anticipate claim 13, it also fails to anticipate dependent claims 14, 15, 24-27, and 29-30.

Independent claims 31 and 32 are not anticipated by Wheatley because Wheatley fails, at a minimum, to disclose an elongated slat slideably contained within the channel, where the slat and the channel are dimensioned so that the transverse cross-section of the slat fits within the channel. Further, the Wheatley patent fails to disclose a fastening surface that is exposed on a surface of the claimed slat and that is “exposed through the channel.” As noted above, raised collar 72 is not “exposed through the channel,” as no portion of collar 72 is even within a channel in the system disclosed in the Wheatley patent.

Because Wheatley fails to anticipate claim 32, it also fails to anticipate dependent claims 33 and 34.

In view of the foregoing, the rejection under 35 U.S.C. § 102(b) over Wheatley is without merit and should be withdrawn.

The Outstanding 103(a) Rejections:

Claims 3, 19, and 20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Wheatley in view of Byrd et al. (U.S. Patent No. 4,496,184). Claims 4 and 21-23 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Wheatley in view of Tucker (U.S. Patent No. 5,261,719). Claim 7 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Wheatley. Applicants respectively traverse.

With respect to the rejection of claims 3, 19 and 20, even if it is assumed that the Examiner is correct that the Byrd et al reference teaches hook and loop fasteners, claims 3, 19, and 20 are still patentable over the combination of Wheatley and Byrd et al. Neither Wheatley nor Byrd et al teach or suggest the limitations noted above with respect to independent claims 1 or 13. Accordingly, claims 3, 19 and 20 are allowable over the combination of Wheatley in view of Byrd et al.

Similary, because neither Wheatley nor Tucker teach or suggest the limitations noted above to be missing from the Wheatley patent with regards to independent claims 1 and 13, dependent claims 4 and 21-23 are also patentable over Wheatley in view of Tucker. Finally, claim 7 is patentable over Wheatley for the same reasons that claim 1 is patentable over Wheatley.

CONCLUSION

In view of the foregoing, reconsideration and allowance of this application are earnestly solicited.

Respectfully submitted,

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Attachments

Amendments to the Drawings:

The attached sheet of drawings includes changes to Fig. 4. This sheet, which includes Figs. 2-4, replaces the original sheet including Figs. 2-4. In Fig. 4, the lead line for element 53 was extended to the front surface of elongated slat 52.

Attachment: Replacement Sheet
Annotated Sheet Showing Changes

Fig. 2

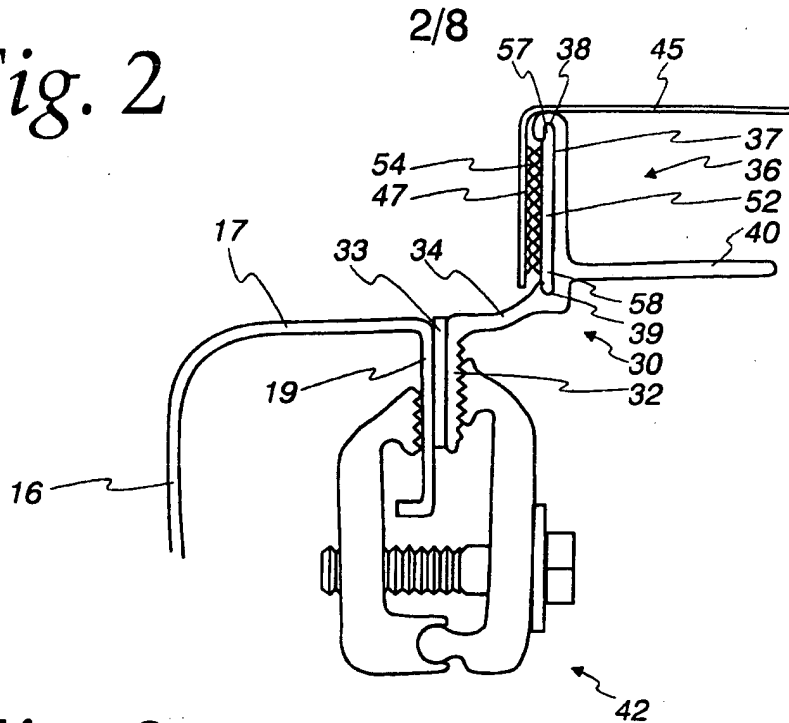


Fig. 3

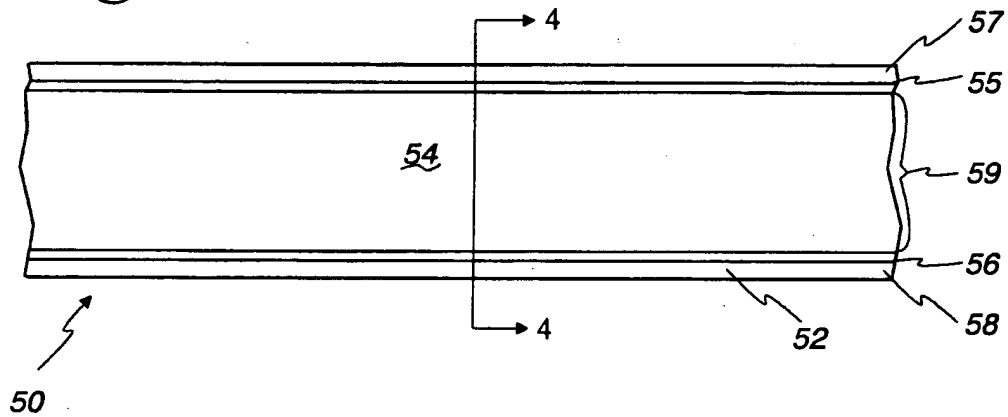


Fig. 4

